PRE-APPEAL BRIEF REQUEST FOR REVIEW

	Docket Number (Optional)
	81862P173

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Signature _____

Typed or printed name Tu T. Nguyen

Application No.	Filed
09/496,990	February 2, 2000

First Named Inventor
Man Pak Yip

Art Unit	Examiner
2155	Kevin T. Bates

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
NOTE: No more than five (5) pages may be provided.

I am the:

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under of 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ Attorney or agent of record.
Registration Number 42,034

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

_____
Signature

Thinh V. Nguyen
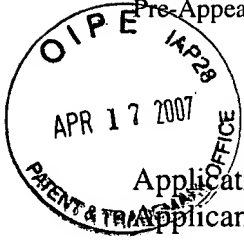Typed or printed name

(714) 557-3800
Telephone Number

April 13, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

☐ *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No.	:	09/496,990	Confirmation No. 6948
Applicant	:	Man Pak Yip	
Filed	:	02/02/2000	
TC/A.U.	:	2155	
Examiner	:	Kevin T. Bates	
Docket No.	:	081862.P173	
Customer No.	:	8791	

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office action dated January 18, 2007, Applicants would like to request a pre-appeal panel review of the application.

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

Claims 1-60 are pending in the present application.

This request is in response to the Final Office Action mailed January 18, 2007. In the Final Office Action, the Examiner rejected claims 1-60 under 35 U.S.C. §102(e). Applicants respectfully traverse the rejections and contend that the Examiner has not established a prima facie case of indefiniteness and/or anticipation.

Pre-appeal panel review of the application in light of the remarks/arguments made herein is respectfully requested.

There are several clear errors in the Examiner's rejections and arguments.

1) Aboul-Magd does not disclose either implicitly or explicitly a controller to generate an admission decision based on the estimated ECR and the estimated measured utilization factor.

Applicants refer to the response filed on March 21, 2006, pages 13-14. Among other things, Applicants submit that the cited portions merely state that during those periods with low activity, the main factor in deciding the admission of the incoming request is the part of the admission criterion related to the mathematical CAC (Aboul-Magd, col. 7, lines 48-51), and during busy periods, an incoming request will only be granted if and only if both parts of the admission criterion are satisfied (Aboul-Magd, col. 7, lines 59-63). This is not related to a controller.

2) Abou-Magd does not disclose, either implicitly or explicitly, an addition request processor to generate the admission decision based on a request resource using the ECR and the booking factor.

Applicants refer to the response filed on March 21, 2006, pages 13-14. Among other things, Applicants submit that Abou-Magd merely discloses setting the over- and under- booking factors to some pre-determined values. The over- and under- booking factors are merely the upper and lower limits to account for the interruption of traffic and to limit the utilization to a provisioned pool capacity. They are not booking factor used in the admission decision.

3) Abou-Magd does not disclose, either implicitly or explicitly a request resource equal to a product of the ECR and the booking factor.

Applicants refer to the response filed on March 21, 2006, pages 13-14. Among other things, Applicants submit that Abou-Magd discloses setting the over-booking factor to 2 and the

under-booking factors to 1 (Aboul-Magd, col. 7, lines 35-36). Since these are fixed, they cannot be used to compute the request resource which is a product of the ECR and the booking factor.

4) Abou-Magd does not disclose, either implicitly or explicitly, a resource updater to update a resource reservation using the ECR, the booking factor, and the estimated measured utilization factor.

Applicants refer to the response filed on March 21, 2006, pages 13-14. Among other things, Applicants submit that the admission decision is merely based on whether or not the mathematical CAC or both parts are satisfied, thus there is no updating of a resource reservation.

Accordingly, Applicants respectfully request the Review Panel render a decision allowing the application.

Conclusion

Applicant respectfully requests the Review Panel render a decision allowing the application.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: April 13, 2007   By_____

Thinh V. Nguyen
Reg. No. 42,034
Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)

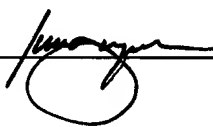*I hereby certify that this correspondence is, on the date shown below, being:*

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                                                                                          April 13, 2007

Date: April 13, 2007   *Tu Nguyen* _____   *Date*